

## UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

LONG TO A SUPERIOR SHOW

SERIAL NUMBER   FILING DATE	FIRST NAMED INVENTOR		ATTORNEY DOCKET NO.
08/602,272 02/16/9	6 ELLIOTT	М	KIR96-01
		EXAMINER	
	18M1/1121	W.W. 1 45 45	2.74.1 61
DAVID E BROOK  HAMILTON BROOK SMITH	4 & REYNOLDS	ARTUNIT	PAPER NUMBER
TWO MILITIA DRIVE	1 CC TYBE FTYPE CERTIFIC		
LEXINGTON MA 02173-4	799	1806	•
		DATE MAILED:	11/21/96
This is a communication from the examiner is COMMISSIONER OF PATENTS AND TRAD	DEMARKS		
_	Responsive to communication filed on		
$\mathcal{G}_{\Omega}$	restriction		·
This application has been examined	Responsive to communication filed on		This action is made final
A shortened statutory period for response to		30 days 1	rom the date of this letter.
Failure to respond within the period for response to	onse will cause the application to become abandon	ed. 35 U.S.C. 133	Tom the date of the follows
Part I THE FOLLOWING ATTACHMENT(	•		
Notice of References Cited by Ex	aminer PTO-892. 2. Notice	e of Draftsman's F	atent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, F			nt Application, PTO-152.
5. Information on How to Effect Draw	wing Changes, PTO-1474 6. 🔲		
Part II SUMMARY OF ACTION			
∠	-50		
1. Claims	<u> </u>		are pending in the application.
Of the above, claims		a	re withdrawn from consideration.
2. Claims			have been cancelled.
3. Claims			are allowed.
4. Claims			are rejected.
5. Claims	1. The state of th		
6. Claims	ar	e subject to restric	tion or election requirement.
7. This application has been filed with i	nformal drawings under 37 C.F.R. 1.85 which are	acceptable for exa	mination purposes.
8. Formal drawings are required in resp	conse to this Office action.		
	have been received on e (see explanation or Notice of Draftsman's Patent		C.F.R. 1.84 these drawings PTO-948).
10. The proposed additional or substitut	e sheet(s) of drawings, filed on	, has (have) been	approved by the
examiner; disapproved by the examiner	caminer (see explanation).		
	ed, has been approv		
	im for priority under 35 U.S.C. 119. The certified erial no; filed on;	copy has been	received  not been received
	e in condition for allowance except for formal matte Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.	rs, prosecution as	to the merits is closed in
· 14.  Other			

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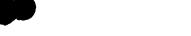
Art Unit: 1806

## **DETAILED ACTION**

## Election/Restriction

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 1-3, drawn to a method for treating or preventing a cardiovascular disorder, classified in class 424, subclass 130.1.
  - II. Claims 4-5, drawn to a method for treating or preventing a cerebrovascular disorder, classified in class 424, subclass 130.1.
  - III. Claims 6-28, drawn to a method of treating or preventing a thrombotic disorder, classified in class 424, subclass 130.1.
  - IV. Claims 29-50, drawn to a method of decreasing plasma fibrinogen in an individual, classified in class 424, subclass 130.1.
- 2. The inventions are distinct, each from the other because of the following reasons: The methods of Groups I- IV differ in the method objectives, method steps and parameters and in the reagents used.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent

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subject matter and because the searches required for the groups are not co-extensive, restriction for examination purposes as indicated is proper.

- 4. This application contains claims directed to the following patentably distinct species of the claimed invention:
- 5. With the election of Group III the following election of species is required:

Species A: tumor factor antagonist is an antibody (claims 8-15)

Species B: tumor factor antagonist is a tumor necrosis factor receptor (claims 16-20)

Species C: tumor factor antagonist is a receptor-antibody fusion protein (claims 21-22)

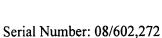
Species D: tumor factor antagonist prevents or inhibits tumor necrosis factor receptor signaling (claim 28)

Species E: tumor factor antagonist prevents or inhibits tumor necrosis factor synthesis or release (claims 23-27)

With the election of Species E, a further election of species is required:

Species aa: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is a phosphodiesterase inhibitor (claims 24 and-25)

Species bb: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is thalidomide or tenidap (claim 26)



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Species cc: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is a A2b adenosine receptor agonist or a A2b adenosine receptor enhancer (claim 27)

Claims 23 will be examined to the extent that it reads on the elected species; species aa-cc.

6. With the election of Group IV the following election of species is required:

Species A: tumor factor antagonist is an antibody (claims 31-37)

Species B: tumor factor antagonist is a tumor necrosis factor receptor (claims 38-42)

Species C: tumor factor antagonist is a receptor-antibody fusion protein (claims 43-44)

Species D: tumor factor antagonist prevents or inhibits tumor necrosis factor receptor signaling (claim 50)

Species E: tumor factor antagonist prevents or inhibits tumor necrosis factor synthesis or release (claims 45-49)

With the election of Species E, a further election of species is required:

Species aa: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is a phosphodiesterase inhibitor (claims 46-47)

Species bb: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is thalidomide or tenidap (claim 48)

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Species cc: the tumor factor antagonist that prevents or inhibits tumor necrosis factor receptor signaling is a A2b adenosine receptor agonist or a A2b adenosine receptor enhancer (claim 49)

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Claims 45 will be examined to the extent that it reads on the elected species; species aa-cc.

- 7. Species A-E and aa-cc are structurally and functionally different reagents which are made by different methods. Their use in the methods of Groups III or IV would require the consideration of different method steps and parameters. Thus, the examination of all species would require different searches in the U.S. Patent Shoes and the scientific literature and would require the consideration of different patentability issues.
- 8. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
- 9. A telephone call was made to Helen Lee on November 18, 1996 to request an oral election to the above restriction requirement, but did not result in an election being made.

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Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

- 10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).
- 11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nancy A. Johnson, Ph.D. whose telephone number is (703) 305-5860. The examiner can normally be reached on Monday-Friday from 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lila Feisee, can be reached on (703) 308-3271. The fax number for the group is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Nancy A. Johnson, Ph.D. November 19, 1996

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